

REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-5, 7-20, and 22-26 are currently pending. Claims 1-3, 5, 7-11, 13-18, 20, and 22-26 have been amended by the present amendment. The changes to the claims are supported by the originally filed specification and do not add new matter.¹

In the outstanding Office Action, Claims 1, 9, and 16 were rejected under 35 U.S.C. § 112, second paragraph, regarding the phrase “performing further tests”; and Claims 1-5, 7-20, and 21-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0117494 to Mitchell et al. (hereinafter “the ‘494 application”) in view of U.S. Patent No. 7,099,947 to Nadeau et al. (hereinafter “the ‘947 patent”).

RESPONSE TO ARGUMENTS

The Office Action dated June 10, 2009, states that the arguments presented in the Amendment filed April 2, 2009, have been fully considered, but are not persuasive.² However, although the Office Action cites to several portions of the ‘494 application and the ‘947 patent in the Response to Arguments section, the Office Action does not appear to provide any explanation as to why the previously presented arguments were not persuasive. In particular, is noted that MPEP § 707.07(f) provides that

[i]n order to provide a complete application file history and to enhance the clarity of the prosecution history record, **an examiner must provide clear explanations** of all actions taken by the examiner during prosecution of an application.

¹ See, e.g., paragraph [0072] of the originally filed specification, which incorporates by reference the book “TCP/IP Illustrated,” Vol. 1, The Protocols, by W. R. Stevens, from Addison-Wesley Publishing Company, 1994; also see Fig. 36A and the discussion related thereto.

² See Office Action dated June 10, 2009, page 19.

Where the applicant traverses any rejection, **the examiner should, if he or she repeats the rejection**, take note of the applicant's argument and **answer the substance of it.**

Accordingly, should the Examiner wish to maintain the rejections of the claims in a subsequent Office Action, it is respectfully requested that the subsequent Office Action provide a detailed explanation for any contrary interpretation in accordance with MPEP § 707.07(f) by which Applicants can fairly decide if this issue requires appeal.

REJECTION UNDER 35 U.S.C. §112

Applicants respectfully traverse the rejections of Claims 1, 9, and 16 under 35 U.S.C. §112, second paragraph. The Office Action asserts that it is unclear as to what the “performing further tests” comprises, or what the results of said tests would be.³ However, Applicants respectfully submit that Claims 1, 9, and 16 are merely broad in this regard and are not unclear. For a non-limiting example, with regard to Claim 1, one of ordinary skill in the art would clearly understand that the step of performing further tests may include the step of determining whether a vendor of the network device can be obtained from the network device using the selected communication application layer protocol defined in Claim 2. Accordingly, it is respectfully requested that the rejections of Claims 1, 9, and 16 under 35 U.S.C. §112, second paragraph, be withdrawn.

REJECTION UNDER 35 U.S.C. §103

Amended Claim 1 is directed to a method of a monitoring device for determining which, if any, communication application layer protocols can be used to extract status information related to a network device, comprising:

storing, by the monitoring device, in a device object associated with the network device, application layer protocol

³ See Office Action dated June 10, 2009, page 3.

specific information obtained from a digital repository for a plurality of communication application layer protocols;

selecting, by the monitoring device, any communication application layer protocol among the plurality of communication application layer protocols;

obtaining, by the monitoring device, from the device object associated with the network device, the application layer protocol specific information for accessing the network device using the selected communication application layer protocol;

determining, by the monitoring device, if the network device can be accessed through the selected communication application layer protocol by sending a message in accordance with the selected communication application layer protocol and the application layer protocol specific information obtained from the device object;

if the determining step determines that the network device can not be accessed using the selected communication application layer protocol, removing, from the device object, by the monitoring device, the application layer protocol specific information for accessing the network device using the selected communication application layer protocol;

if the determining step determines that the network device can be accessed using the selected communication application layer protocol, performing, by the monitoring device, further tests to determine whether the selected communication application layer protocol can be used to extract the status information from the network device; and

repeating, by the monitoring device, the selecting, obtaining, determining, removing, and performing steps for each application layer protocol of the plurality of communication application layer protocols.

Regarding the rejection of Claim 1 under 35 U.S.C. §103(a), the ‘494 application is directed to a method and system for dynamically reconfiguring pervasive device communication channels. In particular, the ‘494 application discusses a service provider 110 that stores (or has access to) available services or software applications 112, available communication filters 114, and available protocol elements 116. The ‘494 service provider 110 includes a provisioning agent 118 to control which services 112, filters 114, and protocol elements 116 are made available to which clients 130, 150, 170. The ‘494 provisioning agent

118 responds to discovery requests from the clients 130, 150, 170 and when appropriate transfers or provisions the services 112, filters 114, and protocol elements 116 to the clients 130, 150, 170. Further, the ‘494 application discusses that once the filters 114 and/or network protocol elements 116 have been deployed to the client 130, 150, 170, the client 130, 150, 170 may begin to use the filters 114 and elements 116 in forming or reconfiguring service component communication channels.⁴

The Office Action apparently cites the ‘494 provisioning agent 118 provided on the service provider 110, and the ‘494 communication manager, for teaching the obtaining step of Claim 1; the ‘494 client 130, 150 framework or architecture for teaching the determining step of Claim 1; and the ‘494 removal of outdated filters for teaching the removing step of Claim 1.⁵

However, it is respectfully submitted that the ‘494 application fails to disclose obtaining, by the monitoring device, from the device object associated with the network device, the application layer protocol specific information for accessing the network device using the selected communication application layer protocol. Rather, with respect to the cited provisioning agent, as noted above, the ‘494 application simply discusses the provisioning agent 118 transfers or provisions the services 112, filters 114, and protocol elements 116 to the clients 130, 150, 170, **in response to discovery requests from the clients 130, 150, 170.** The ‘494 application does not disclose that either the provisioning agent 118 or the clients 130, 150, 170 is a monitoring device that *obtains*, from a device object associated with the network device, *application layer protocol specific information for accessing the network device using a selected communication application layer protocol (selected by a monitoring device).*

⁴ See ‘494 application, paragraph [0023].

⁵ See Office Action dated June 10, 2009, pages 6-8 and 26-32.

Further, it is respectfully submitted that the ‘494 application fails to disclose determining, by the monitoring device, if the network device can be accessed through the selected communication application layer protocol by sending a message in accordance with the selected communication application layer protocol and the application layer protocol specific information obtained from the device object. Rather, with respect to the cited client 130, 150 framework or architecture, the ‘494 application simply discusses that the framework or architecture for the client 130, 150 computing system may be an OSGi (Open Services Gateway Initiative) component framework. The ‘494 application discusses an example in which Java 2 Platform, MicroEdition (J2ME) is utilized and the clients 130, 150 can be configured using connected limited device configuration (CLDC) or connected device configuration (CDC).⁶ The ‘494 application does not disclose that the client 130, 150 framework or architecture performs any type of determination related to whether a network device can be accessed through a selected communication application layer protocol by either the clients 130 or 150 and, in particular, that the client 130, 150 framework or architecture determines if a network device can be accessed *by sending a message in accordance with a selected communication application layer protocol and application layer protocol specific information.*

Further, it is respectfully submitted that the ‘494 application fails to disclose that if the determining step determines that the network device can not be accessed using the selected communication application layer protocol, removing, from the device object, by the monitoring device, the application layer protocol specific information for accessing the network device using the selected communication application layer protocol. Rather, with respect to the cited removal of outdated filters, the ‘494 application simply discusses a step 450 in which new protocol plug-ins and/or add on filters are received and, a step 460, in

⁶ See ‘494 application, paragraph [0026].

which the sets of available protocol elements and/or filters are updated by loading or storing the received items as available to the services (which may include removing outdated filters or protocol elements from the set of available filters and protocol elements).⁷ The ‘494 application does not disclose that the removal of filters *is based on a determination (determined by sending a message in accordance with a selected communication application layer protocol and application layer protocol specific information) that a network device can not be accessed using the selected communication application layer protocol.*

Further, the Office Action apparently acknowledges, and it is respectfully submitted, that the ‘494 application fails to disclose “a system and method wherein a determining step determines that the network device can be accessed using the selected communication protocol, performing further tests to determine whether to select a communication protocol can be used to extract the status information from the network device.”⁸

Moreover, it is respectfully submitted that the ‘947 patent fails to remedy the deficiencies of the ‘494 application, as discussed above. The ‘947 patent is directed to a method and apparatus for providing controlled access of requests from virtual private network devices to managed information objects using the simple network management protocol. In particular, the Office Action apparently cites the ‘947 patent access control in a second sub-phase for teaching performing further tests as defined in Claim 1.

However, it is respectfully submitted that the ‘947 patent fails to disclose if the determining step determines that the network device can be accessed using the selected communication application layer protocol, performing, by the monitoring device, further tests to determine whether the selected communication application layer protocol can be used to extract the status information from the network device. Rather, with respect to the cited

⁷ See ‘494 application, paragraph [0037].

⁸ See Office Action dated June 10, 2009, page 9.

access control in the second sub-phase, the ‘947 application simply discusses that in block 616 a securityName is extracted from a context string, in block 620 the securityName is looked up in a VAC MIB table, and in block 622 a determination is made as to whether the securityName is found in the look up operation.⁹ The ‘947 patent does not disclose that the access control using the securityName involves *a determination (determined by sending a message in accordance with a selected communication application layer protocol and application layer protocol specific information) that a network device can be accessed using the selected communication application layer protocol.*

Thus, no matter how the teachings of the ‘494 application and the ‘947 patent are combined, the combination does not teach or suggest the obtaining, determining, and removing steps of Claim 1. Accordingly, it is respectfully submitted that Claim 1 (and all associated dependent claims) patentably defines over any proper combination of the ‘494 application and the ‘947 patent.

Amended Claim 9 recites, *inter alia*,

means for obtaining, from the device object associated with the network device, the application layer protocol specific information for accessing the network device using the selected communication application layer protocol;

means for determining if the network device can be accessed through the selected communication application layer protocol by sending a message in accordance with the selected communication application layer protocol and the protocol specific information obtained from the device object;

means for removing, from the device object, the application layer protocol specific information for accessing the network device using the selected communication application layer protocol, when the means for determining determines that the network device can not be accessed using the selected communication application layer protocol.

Claim 16 recites, *inter alia*

⁹ See ‘947 patent, column 16, lines 29-42.

instructions for obtaining, by the monitoring device, from the device object associated with the network device, the application layer protocol specific information for accessing the network device using the selected communication application layer protocol;

instructions for determining, by the monitoring device, if the network device can be accessed through the selected communication application layer protocol by sending a message in accordance with the selected communication application layer protocol and the application layer protocol specific information obtained from the device object;

instructions for removing, by the monitoring device, from the device object, the application layer protocol-specific information for accessing the network device using the selected communication application layer protocol, when the instructions for determining determine that the network device can not be accessed using the selected communication application layer protocol.

As noted above, the ‘494 application and the ‘947 patent, alone or in proper combination, fail to disclose the obtaining, determining, and removing steps of Claim 1. Thus, the ‘494 application and the ‘947 patent fail to disclose the means and instructions of Claims 9 and 16, respectively. Accordingly, it is respectfully submitted that Claims 9 and 16 (and all associated dependent claims) patentably define over any proper combination of the ‘494 application and the ‘947 patent.

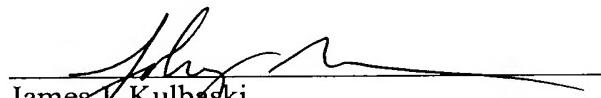
CONCLUSION

Thus, it is respectfully submitted that independent Claims 1, 9, and 16 (and all associated dependent claims) patentably define over any proper combination of the ‘494 application and the ‘947 patent.

Consequently, in view of the present amendment and in light of the above discussion, the outstanding grounds for rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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RELATED CASE STATUS UPDATE

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Application No / Control No	PTO Action Description	PTO Mail Date	Applicant Action Description	Date Filed
09/440,692	Office Action	Dec-15-2004	Req to Reinstate Appeal/AB	Jan-28-2005
09/440,646	Notice of Appeal	May-15-2006	Appeal Brief	Jul-14-2006
09/440,645	Notice of Appeal	Jun-27-2007	Appeal Brief	Aug-22-2007
09/756,120	Final Rejection	Jun-25-2009		
10/142,986	Notice of Allowance	Jun-23-2009		
10/143,003	Notice of Allowance	Jun-15-2009		
10/157,902	Notice of Appeal	Jun-01-2007	Appeal Brief	Aug-01-2007
10/157,903	Notice of Allowance	Jul-02-2009		
10/225,290	Office Action	Apr-03-2009	OA Response	Jun-03-2009
10/326,098	Office Action	Jan-28-2009	OA Response	Mar-24-2009
10/460,404	Office Action	Mar-20-2008	OA Response (1st)	
10/670,604	Final Rejection	Jun-16-2009		
10/665,536	Office Action	Apr-03-2009	OA Response	Jun-19-2009
10/702,485	Final Rejection	Jun-24-2009		
10/684,434	Notice of Appeal	Jul-10-2007	Appeal Brief	Sep-10-2007
10/764,467	Notice of Allowance	Jun-15-2009		
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10/913,337	Final Rejection	Aug-05-2009		
10/927,283	Notice of Allowance	Jun-12-2009		
10/913,364	Office Action	Jun-02-2009	OA Response	Jul-30-2009
10/913,431	Final Rejection	Jul-09-2009		
10/831,187	Office Action	May-14-2009	OA Response	Jul-09-2009
10/857,856	Notice of Allowance	Jun-30-2009		
10/933,519	Notice of Allowance	Jul-14-2009		
11/032,039	Office Action	Apr-22-2009	OA Response	Jun-16-2009
11/032,063	Final Rejection	May-28-2009	Final Resp	Jul-27-2009
11/032,063	Final Rejection	May-28-2009	RCE	Jul-27-2009
11/042,167	Office Action	Jul-15-2009		
11/073,635	Office Action	Mar-06-2009	OA Response	Jun-03-2009
11/103,436	Office Action	May-13-2009	OA Response	Jul-10-2009
11/234,323	Notice of Allowance	May-21-2009	Issue Fee	Aug-10-2009
11/234,323	Notice of Allowance	May-21-2009	Pub Fee Due	Aug-10-2009
11/182,889	Office Action	Apr-30-2009	OA Response	Jun-10-2009
11/191,045	1st Office Action	Feb-27-2009	1st OA Resp	May-13-2009
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Control No	PTO Action Description	PTO Mail Date	Applicant Action Description	Date Filed
11/517,428	Notice of Allowance	Jul-08-2009	Interview Summary Stmt	Aug-10-2009
11/455,663	Notice of Allowance	Aug-10-2009		
11/873,935	Notice of Allowance	Jul-31-2009		
11/940,785	1st Office Action	Jun-24-2009		
11/935,161	1st Office Action	Aug-11-2009		
12/030,623	Notice of Allowance	Jul-29-2009		
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